United Nations CCPR/C/NZL/QPR/6

International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues prior to submission of the sixth periodic report of New Zealand*

The Human Rights Committee, at its ninety-seventh session (A/65/40 (Vol. I), para. 40), established an optional procedure which consists in the preparation and adoption of a list of issues to be transmitted to the State party concerned prior to the submission of its periodic report. The replies of the State party to this list of issues will constitute its report under article 40 of the Covenant.

General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please provide detailed information on any significant developments in the legal and institutional framework within which human rights are promoted and protected at the national level that have taken place since the previous periodic report, including any relevant case law. Please also provide information on measures adopted to disseminate the Covenant among judges, lawyers and prosecutors.

2. Please provide information on significant political and administrative measures taken since the previous report to promote and protect human rights under the Covenant, and the resources allocated thereto, their means, objectives and results.

3. Please provide any other information on new measures taken to disseminate and implement the previous recommendations of the Committee (CCPR/C/NZL/CO/5), including any necessary statistical data.

* Adopted by the Committee at its 110th session (10–28 March 2014).

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Specific information on the implementation of articles 1 to 27 of the Covenant, including with regard to the previous recommendations of the Committee

Constitutional and legal framework within which the Covenant is implemented (art. 2)

4. Does the State party envisage withdrawing its reservations entered upon its ratification of the Covenant? If not, please provide detailed reasons explaining why it does not intend to do so and how those reservations are compatible with the object and purpose of the Covenant (CCPR/C/NZL/CO/5, para. 5).

5. In the light of the previous concluding observations of the Committee (CCPR/C/NZL/CO/5, para. 6), please provide information on whether the national action plan for human rights for the period 2005–2010 that was adopted by the New Zealand Human Rights Commission was implemented by government agencies. If so, what was the outcome? Furthermore, please provide information on the measures taken to adopt a new national action plan on human rights after the 2005–2010 action plan lapsed.

6. In the light of the previous concluding observations of the Committee (CCPR/C/NZL/CO/5, para. 7 and CCPR/CO/75/NZL, para. 8), please indicate the measures taken to strengthen the Bill of Rights Act of 1990, which reportedly does not encompass all Covenant rights and does not take precedence over ordinary domestic law. Furthermore, please state the measures taken to revise the laws that have been enacted but are inconsistent with the Bill of Rights Act and to ensure that new legislation is consistent with the obligations of the State party under the Covenant.

7. Please provide an update on the measures taken to conduct a case-flow analysis of the Family Court with a view to reducing delays in issuing decisions following the Views adopted on 16 March 2007 by the Committee in communication No. 1368/2005, *E.B.* v. *New Zealand*. Please indicate what procedures are in place for the implementation of the Views of the Committee under the Optional Protocol. Please indicate what concrete action has been taken to implement the Views of the Committee in respect of the State party. Specifically, what measures have been taken to ensure that the authors in communication No. 1368/2005 receive reparation?

Counter-terrorism measures and respect for the rights guaranteed in the Covenant (arts. 2, 14, 17 and 26)

8. In the light of the previous recommendations of the Committee (CCPR/C/NZL/CO/5, para. 13), please provide information on the specific legislative measures taken to ensure that measures taken to implement Security Council resolutions 1267 (1999) and 1373 (2001), as well as the procedures for the national designation of groups or entities as terrorist groups, fully comply with the provisions of the Covenant. Please state the measures that have been taken to revise the procedures for the designation of groups or individuals as terrorist entities under the Terrorism Suppression Amendment Act of 2007. What measures have been taken to ensure that such groups and entities can challenge those designations? Furthermore, please provide updated information on the operation of the new section introduced in the State party's court system that is mandated to receive and hear classified security information against groups and individuals designated as terrorist entities in their absence.

9. Please provide information on the steps taken to redraft the Government Communications Security Bureau and Related Legislation Amendment Bill, taking into account the conclusions of the Human Rights Commission, published in a report to the Prime Minister in July 2013, that the bill would breach the right to privacy in an unbalanced and unjustified manner.

10. Please clarify whether the comments of the Human Rights Commission in the above-mentioned report to the Prime Minister were taken into account in the Telecommunications (Interception Capability and Security) Act (Act No. 91 of 11 November 2013). In particular, please clarify the following points in the Act: (a) the definition of "national security"; (b) the extent to which information on users, including their personal data, may be provided to relevant authorities by a service or network operator; (c) the extent to which intercepted information and information on the receivers may be provided by a service or network operator to relevant authorities; (d) the conditions under which information may be classified; and (e) the conditions under which classified security information may be used by law enforcement authorities and the judiciary.

Equality and non-discrimination (arts. 2, 20 and 26)

11. Please provide information on the measures taken to ensure equality in employment by closing the existing pay gaps between men and women. Furthermore, please provide information on the concrete measures taken, since the last periodic report, to improve the low representation of women in high-level and managerial positions and on boards of private entities. Please provide information on the measures taken to identify and address the underlying causes of the wider pay gap in the public service.

12. Please provide information on the measures taken to (a) combat existing stereotypes and prejudices against certain ethnic and religious groups and (b) address the problem of incitement to racial hatred on the Internet. Please provide information on measures taken to address the continuing inequalities faced by Maori and particularly Pacific Island peoples in the education system and in the labour market. Please provide information on the measures taken to protect migrants, including targeted measures to strengthen equal access to the labour market in order to alleviate the concentration of qualified individuals in low-paying jobs.

Right to life, prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and rights of non-citizens (arts. 3, 6, 7 and 13)

13. Please provide an update on the legislative, administrative and other measures taken to eliminate all forms of violence against women, including spousal rape, by ensuring, inter alia, prompt investigations, prosecutions of perpetrators and the provision of effective remedies to victims. Please provide statistical data on violence against women, including on: (a) the number of complaints received; (b) the number of cases prosecuted; (c) the number of convictions secured and acquittals; and (d) the reparation provided to victims. Please provide an update on the status of investigation of the cases filed against the "Roast Busters", who reportedly have violated several young, including underage, women.

14. In the light of the concluding observations of the Committee (CCPR/C/NZL/CO/5, para. 10), please provide information on the measures taken to relinquish the use of electro-muscular disruption devices. As the State party progresses towards complete relinquishment, please provide an update on the measures taken to ensure full compliance with the strict guidelines on the usage of such devices in those cases in which it is allegedly justified.

15. In the light of the concluding observations of the Committee (CCPR/C/NZL/CO/5, para. 14) and the follow-up responses of the State party (CCPR/C/NZL/CO/5/Add.1, paras. 46–50 and CCPR/C/NZL/CO/5/Add.2, paras. 13–21), please provide an update on

the prosecution of the four cases arising from Operation Eight, which was carried out on 15 October 2007. Please provide information on the investigations by the Independent Police Conduct Authority into police conduct during the Operation Eight anti-terrorism raids. Have those investigations been concluded? If yes, please outline the recommendations that were made and the measures taken to implement them.

16. In the light of the concluding observations of the Committee (CCPR/C/NZL/CO/5, para. 16), please provide information on the measures taken to ensure that the State party's policy of "safe third countries" does not breach the principle of non-refoulement. Please describe the circumstances that warrant the detention of undocumented migrants, and report on the conditions of such detention. Please also provide information on the measures taken to ensure that asylum seekers and undocumented migrants are not detained in correctional facilities together with convicted prisoners. Please provide an update on the asylum-seeking application and processing procedure for "mass arrival[s]" (those arriving in a group of more than 30) introduced by the Immigration Amendment Act (Act No. 39 of 18 June 2013).

Elimination of slavery and servitude (art. 8)

17. Please provide updated information on measures taken (a) to prevent and combat trafficking in persons and to ensure early detection of cases, (b) to prosecute and punish such acts and (c) to assist and protect victims of trafficking and to ensure their access to health care. Please also provide relevant statistical data, disaggregated on the basis of gender, age and country of origin, on this phenomenon. Specifically, please provide an update on the case of T.A.T, who was reportedly trafficked from Ukraine and forced into prostitution by her traffickers.

Treatment of persons deprived of their liberty, independence of the judiciary and fair trial (arts. 2, 10 and 14)

18. Please provide updated information on the measures taken to revise the legislation related to drug possession which was found to infringe the right to presumption of innocence by the Supreme Court. Has the State party made any amendments to such legislation? If so, what is the nature of those amendments and how do they address the concern about the presumption of innocence?

19. In the light of the concluding observations of the Committee (CCPR/C/NZL/CO/5, para. 11), please provide information on the specific measures taken to ensure that the State party continues to monitor the respect for human rights in privatized prisons. Please provide information on specific arrangements that exist to foster the inspection of those prisons by independent bodies to ensure compliance with the rights guaranteed under the Covenant.

20. Please respond to reports that the Waitangi Tribunal is significantly underresourced, which has caused a huge backlog of claims and inordinate delays in the processing of claims by Maori against the Government alleging breaches of the Treaty of Waitangi. Please state the measures being taken to address these concerns in order to fully guarantee access to justice and the right to an effective remedy under the Covenant.

21. In the light of the concluding observations of the Committee (CCPR/C/NZL/CO/5, para. 12) and the follow-up responses of the State party (CCPR/C/NZL/CO/5/Add.1, paras. 2–45 and CCPR/C/NZL/CO/5/Add.2, paras. 3–6), please provide an update on the achievements made following the various initiatives taken aimed at reducing the disproportionately high incarceration rate of Maori, in particular women. Please provide information on improvements made to address the underlying social causes and concerns regarding discrimination in the administration of justice that are responsible for the high proportion of Maori among accused persons as well as among victims of crimes.

Protection of the rights of children (arts. 7 and 24)

22. In the light of the concluding observations of the Committee (CCPR/C/NZL/CO/5, para. 18), please provide information on the concrete measures taken to combat child abuse. What specific measures have been taken to establish mechanisms for the early detection of child abuse and to encourage reporting of suspected and actual abuse? Please provide updated information on measures taken (a) to prosecute and punish such acts and (b) to assist and protect victims of child abuse. Please also provide relevant statistical data, disaggregated on the basis of sex and age, on this phenomenon.

23. Please explain what measures the State party is taking to prevent underage and forced marriage among members of migrant communities. Is the State party considering raising the minimum age of marriage with parental consent?

Equality and non-discrimination, right to participate in public life and the protection of the rights of persons belonging to ethnic minorities (arts. 25, 26 and 27)

24. In the light of the concluding observations of the Committee (CCPR/C/NZL/CO/5, para. 19) and the follow-up responses of the State party (CCPR/C/NZL/CO/5/Add.1, paras. 52–26 and CCPR/C/NZL/CO/5/Add.2, paras. 7–12), please provide information on how the Marine and Coastal Area (Takutai Moana) Act of 2011, which repealed the Foreshore and Seabed Act of 2004, addresses the issues of discrimination and extinguishment of the rights of Maori, with regard to their customary title over the foreshore and seabed. Please explain how the concept of shared exclusivity and public access protect the rights of Maori to the foreshore and seabed, considering their cultural and spiritual significance to the Maori. Please respond to reports that the Marine and Coastal Area (Takutai Moana) Act of 2011 still allows for the extinguishment of Maori rights.

25. In the light of the concluding observations of the Committee (CCPR/C/NZL/CO/5, para. 20), please provide information on measures taken to ensure that the Treaty of Waitangi forms part of domestic law and, therefore, can be invoked in domestic courts. Please provide information on steps taken as well as a timetable to implement the Waitangi Tribunal's Wai 262 decision of 2011.

26. Please respond to allegations that the number of Maori elected to local government is not proportional to their percentage of the population, with less than 5 per cent of local government positions held by Maori prior to the 2007 local government elections. What measures have been taken to implement the Local Government Act of 2002, which permits local governments to facilitate the participation of Maori and improve the opportunities for Maori to contribute to the decision-making processes of local government? What measures have been taken to establish special electoral arrangements for Maori under the Act since it came into force? Please respond to allegations that the State party has taken a decision not to guarantee Maori electoral seats in the Auckland "super city" Council, contrary to the recommendations of the Royal Commission on Auckland Governance that was established by the State party.

27. Please respond to reports that consultation procedures with the Maori are not applied consistently by the State party and are not always in accordance with traditional Maori decision-making procedures. Please state the measures that have been taken to develop the technical capacity of the Maori to ensure their effective participation in decision-making processes on issues that affect their rights and to fulfil their right to free, prior and informed consent.